

# **S.Con.Res. 13: The Budget Resolution for FY2010**

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## Summary

The Congressional Budget Act establishes the budget resolution as a central coordinating mechanism for budgetary decision making. The budget resolution sets forth aggregate levels of spending, revenue, and public debt. It is not intended to establish details of spending or revenue policy and does not provide levels of spending for specific agencies or programs. Instead, its purpose is to create enforceable parameters within which Congress can consider legislation dealing with spending and revenue.

The spending policies in the budget resolution encompass two types of spending legislation: discretionary spending and direct (mandatory) spending. Discretionary spending is controlled through the appropriations process. Appropriations legislation is considered each fiscal year and provides funding for numerous programs such as national defense, education, and homeland security. Direct spending, alternately, is provided for in legislation outside of appropriations acts. Direct spending programs are typically established in permanent law and continue in effect until such time as revised or terminated by another law.

The FY2010 budget resolution establishes congressional priorities by dividing spending among 21 major functional categories. These 21 categories do not correspond to the committee system by which Congress operates, and as a result these spending levels must be “crosswalked” to the House and Senate committees having jurisdiction over both discretionary and direct spending. These amounts are known as 302(a) allocations and hold committees accountable for staying within the spending limits established by the budget resolution.

The House Budget Committee approved its budget resolution (H.Con.Res. 85) on March 25, 2009, on a 24-15 vote. The Senate Budget Committee approved its budget resolution (S.Con.Res. 13) the next day on a 13-10 vote. The House (on a 233-196 vote) and Senate (on a 55-43 vote) agreed to their versions of the budget resolution on April 2, 2009. The conference agreement on the budget resolution (S.Con.Res. 13) was passed in the House (on a 233-193 vote) and in the Senate (on a 53-43 vote) on April 29, 2009.

This report summarizes some of the major provisions of S.Con.Res. 13, including overall spending and revenue totals, reconciliation instructions, and policy assumptions. It will be updated as circumstances warrant.

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## Introduction

The Congressional Budget Act establishes the budget resolution as a central coordinating mechanism for budgetary decision making. The budget resolution creates enforceable parameters with which spending, revenue, and debt legislation must be consistent. It is not a law. It is not signed by the President nor can it be vetoed. Instead, its purpose is to establish a framework within which Congress considers legislation dealing with spending and revenue.

The budget resolution is not intended to establish details of spending or revenue policy.<sup>1</sup> Instead, details of such policy, and legislative language to implement it, are to be included in legislation reported from the committees with legislative jurisdiction subsequent to the adoption of the budget resolution. All spending or revenue legislation reported from legislative committees, however, is expected to be consistent with the levels and priorities agreed to in the budget resolution.

The spending policies in the budget resolution encompass two types of spending legislation: discretionary spending and direct (or mandatory) spending. Discretionary spending is controlled through the appropriations process. Appropriations legislation is considered annually for the fiscal year beginning October 1. Appropriations legislation provides funding for numerous activities such as national defense, education, and homeland security, as well as general government operations.<sup>2</sup>

Direct spending, alternately, is provided for in legislation outside of appropriations acts. Direct spending programs are typically established in permanent law that continue in effect until such time as they are revised or terminated by another law. The actual annual cost of direct spending is not determined by Congress. It is instead dictated by formulas within the legislation providing for the program. The overall cost of a program depends on the eligibility requirements and benefits set forth in the legislation. These criteria determine who will be eligible to receive benefits and how much benefit they will receive. Only by altering these formulas can Congress adjust how much money will be spent.

## Legislative History

On March 25, the House Budget Committee marked up and voted to report the House version of the FY2010 budget resolution (H.Con.Res. 85, H.Rept. 111-60) by a vote of 24-15. During markup, the committee considered 30 amendments to the chairman's mark: one amendment was adopted, 27 amendments were rejected, and two amendments were withdrawn.<sup>3</sup>

The Senate Budget Committee considered and marked up the Senate version of the FY2010 budget resolution over the course of two days, March 25 and 26. The Committee voted to report S.Con.Res. 13 by a vote of 13-10. During markup, the committee considered 27 amendments to the chairman's mark: 15 amendments were adopted and 12 amendments were rejected.<sup>4</sup>

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<sup>1</sup> For more information on the relationship of the budget resolution to spending and revenue legislation, see CRS Report R40472, *The Budget Resolution and Spending Legislation*, by Megan Suzanne Lynch.

<sup>2</sup> For more information on the appropriations process see CRS Report 97-684, *The Congressional Appropriations Process: An Introduction*, by Sandy Streeter.

<sup>3</sup> For a description of the amendments and the roll call votes, see H.Rept. 111-60, *Concurrent Resolution on the Budget—Fiscal Year 2010*, committee report to accompany H.Con.Res. 85, pp. 93-120.

<sup>4</sup> For a description of the amendments and the roll call votes, see S.Prt. 111-16, Committee print to accompany S.Con.Res. 13, *Concurrent Resolution on the Budget FY2010*, pp. 40-44.

The House and Senate consider the budget resolution under procedures generally intended to expedite final action.

In the House, the budget resolution usually is considered under a special rule, limiting the time of debate and allowing only a few amendments, as substitutes to the entire resolution. On April 1 and 2, the House considered H.Con.Res. 85 under two special rules reported by the House Rules Committee. The first rule (H.Res. 305, H.Rept. 111-70) provided for four hours general debate only. The second rule (H.Res. 316, H.Rept. 111-73) made in order the four amendments in the nature of a substitute printed in the House Rules Committee report. During consideration of the FY2010 budget resolution, the House rejected the four amendments made in order by the special rule. The House subsequently agreed to H.Con.Res. 85 by a vote of 233-196.<sup>5</sup>

The Senate considers the budget resolution under the procedures set forth in the Budget Act, sometimes as modified by a unanimous consent agreement. Debate on the initial consideration of the budget resolution, and all amendments, debatable motions, and appeals, is limited to 50 hours. Amendments, motions, and appeals may be considered beyond this time limit, but without debate. (Consideration of the conference report is limited to 10 hours.) The Senate considered its version of the FY2010 budget resolution over the course of four days, March 30-April 2. During consideration of S.Con.Res. 13, the Senate considered 121 amendments: 101 amendments were adopted, 17 amendments were rejected, and three amendment fell on a point of order. On April 2, the Senate agreed to S.Con.Res. 13, as amended, by a 55-43 vote.<sup>6</sup>

After resolving the differences between their respective versions, the House and Senate agreed to the conference report to accompany the FY2010 budget resolution (S.Con.Res. 13, H.Rept. 111-89) by votes of 233-193 and 53-43, respectively, on April 29.<sup>7</sup>

## Overall Totals

The budget resolution sets forth levels for new budget authority, outlays, revenue, and public debt for the budget year and four outyears.<sup>8</sup> The levels in the budget resolution deal with aggregates, not programmatic spending details. Assumptions concerning some major programs may be discussed in the reports accompanying the budget resolution, but these assumptions are not in the form of legislative language and are not binding on the committee of jurisdiction.

The House budget resolution provided for revenue levels of \$2,328 billion and outlays of \$3,550 billion in FY2010, differing slightly from the Senate budget resolution levels of \$2,288 billion in revenues and \$3,534 billion in outlays. The House budget resolution also included reconciliation instructions to allow for health care and education initiatives, while the Senate did not include any reconciliation instructions. There were some other differences in the House and Senate budget resolutions, including assumptions regarding future legislation concerning estate tax rates and the

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<sup>5</sup> For the consideration and adoption of H.Con.Res. 85, see *Congressional Record*, daily edition, vol. 155 (Apr. 1 and 2, 2009), pp. H4370-H4393, H4415-H4487.

<sup>6</sup> For the consideration and adoption of S.Con.Res. 13, see *Congressional Record*, daily edition, vol. 155 (Mar. 30-Apr. 2, 2009), pp. S3942-S3977, S4009-S4055, S4112-S4164, S4233-S4293.

<sup>7</sup> The House considered the conference report under a special rule (H.Res. 371). For the House consideration of the conference report to S.Con.Res. 13, see *Congressional Record*, daily edition, vol. 155 (Apr. 28-29, 2009), pp. H4891-H4897, H5355-H5373. For the Senate consideration of the conference report to S.Con.Res. 13, see *Congressional Record*, daily edition, vol. 155 (Apr. 29, 2009), pp. S4840-S4881.

<sup>8</sup> Under Section 301(a) of the Budget Act, the budget resolution must include projections for four out-years.

number of years for which the alternative minimum tax (AMT) would be patched, as well as the number of reserve funds.<sup>9</sup>

A budget resolution conference agreement was filed on April 27, 2009 and included \$2,322 billion in revenues and \$3,555 billion in outlays for FY2010, resulting in a projected deficit of \$1,233 billion. By FY2014, the budget resolution cuts the projected deficit by half to \$523 billion. The conference agreement passed both the House and Senate on April 29, 2009.

The budget resolution includes programmatic totals broken out by 21 functional categories. Though these amounts are non-binding, these funds are later allocated to House and Senate committees in order to create department and programmatic spending totals for the upcoming fiscal year. An amount of \$130 billion in new budget authority is provided for overseas deployment and other activities (i.e., war costs).<sup>10</sup>

## **Programmatic Assumptions**

It is inevitable that Members will consider the impact on particular programs or agencies when they consider a budget resolution. Each committee is required to submit its “views and estimates” with information on the preferences and legislative plans of that committee regarding budget matters to help the Budget Committee develop appropriate spending levels for each of the functional categories.

While the budget resolution does not allocate funds among specific agencies or programs, assumptions underlying the amounts set forth in the functional categories are frequently discussed in the reports accompanying the budget resolution. Report language, however, is not binding on the committees with jurisdiction over spending and revenue. In addition, provisions included in the budget resolution also indicate programmatic assumptions or desires. S.Con.Res. 13 includes “Policy” and “Sense of the Congress” language expressing the assumptions and desires of the chambers for certain programs to receive priority in funding.

Title V of S.Con.Res. 13 is made up of two sections each indicating that the budget resolution supports certain policy. The first section refers to policy on middle-class tax relief and assumes three additional years of AMT relief (through FY2014), a two-year extension of expired and expiring tax provisions, and a new incentive for retirement savings. The agreement supports the permanent extension of tax relief first enacted in 2001 and 2003 for middle-income taxpayers (the resolution does assume the expiration of the current top two income tax rates, which will rise to 36 percent and 39.6 percent in 2011) and the continuation of current estate tax rates.

The second section describes a number of specific defense priorities, such as military healthcare and pay and benefits, and troop readiness.

Title VI of S.Con.Res. 13 is comprised of seven “Sense of the Congress” provisions related to a wide spectrum of issues including veterans and servicemembers’ health care, homeland security, American innovation and economic competitiveness, pay parity, college affordability and student loan reform, great lakes restoration, and child support enforcement.

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<sup>9</sup> Details of the House passed budget resolution are available at [http://budget.house.gov/menu\\_congress.shtml](http://budget.house.gov/menu_congress.shtml). Details of the Senate passed budget resolution are available at <http://budget.senate.gov/democratic/senatebudres.html>.

<sup>10</sup> For more information on policy issues surrounding the budget, see CRS Report R40088, *The Federal Budget: Current and Upcoming Issues*, by D. Andrew Austin and Mindy R. Levit.

Neither “Sense of the Congress” provisions nor “Policy” statements are binding on the committees with jurisdiction over spending and revenue, although committees may be influenced by them.

## Committee Allocations

Rather than including levels of spending for specific agencies or programs, the budget resolution establishes congressional priorities by dividing spending among the 21 major functional categories of the federal budget.<sup>11</sup> These 21 functional categories do not correspond to the committee system by which Congress operates. As a result, the spending levels in the 21 functional categories are allocated, or “crosswalked,” to the House and Senate committees having jurisdiction over discretionary spending (appropriations committees) and direct spending (legislative committees). These “crosswalked” totals appear in the joint explanatory statement of the conference report on the budget resolution and are referred to as 302(a) allocations.<sup>12</sup> These 302(a) amounts hold committees accountable for staying within the spending limits established by the budget resolution.

## Discretionary Spending

The 302(a) allocations made to the House and Senate Appropriations Committees reflect their jurisdiction over all discretionary spending. These allocations hold the appropriations committees accountable for staying within the spending limits established by the budget resolution.

An additional restraint is placed on discretionary spending limits by Sec. 401 of S.Con.Res. 13. Sec. 401 established a point of order limiting discretionary spending in the Senate to \$1,391,471,000,000 in new budget authority and \$1,220,843,000,000 in outlays for 2009; and, \$1,086,021,000,000 in new budget authority and \$1,307,240,000,000 in outlays for 2010.<sup>13</sup>

Both the House and Senate Appropriations Committees have 12 subcommittees. Each of these subcommittees is responsible for reporting one regular appropriations bill. Sometimes these bills are packaged together in what is referred to as an omnibus appropriations act. The Appropriations Committee is now responsible for subdividing their committee allocation among their

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<sup>11</sup> The FY2010 budget resolution conference agreement added an additional functional category for “Overseas Deployment and Other Activities” bringing the total number of functional categories to 21. These amounts are not enforced by points of order. For more information on functional categories see CRS Report 98-280, *Functional Categories of the Federal Budget*, by Bill Heniff Jr.

<sup>12</sup> These totals are named after Section 302(a) of the Budget Act (Titles I-IX of P.L. 93-344, 88 Stat. 297-332) as amended, which requires that the total budget authority and outlays set forth in the budget resolution be allocated to each House and Senate committee that has jurisdiction over specific spending legislation. These allocations are in the joint explanatory statement accompanying the conference agreement, H.Rept. 111-89 at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_reports&docid=f:hr089.111.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:hr089.111.pdf) (pp. 141-148). Note that 302(a) allocations to the House and Senate Appropriations Committees were revised on June 3, 2009, by the chairs of the House and Senate Budget Committees pursuant to authority granted in S.Con.Res. 13 allowing the revision of spending limits after the President’s budget submission. Revised 302(a) allocations for the House Appropriations Committee can be found at Rep. John M. Spratt, Jr., “Revisions to Allocation for House Committee on Appropriations,” *Congressional Record*, daily edition, vol. 155 (June 3, 2009), p. H6129. Revised allocations for the Senate Appropriations Committee can be found at Senator Kent Conrad, “Further Changes to S.Con.Res. 13,” *Congressional Record*, daily edition, vol. 155 (June 3, 2009), p. S6024.

<sup>13</sup> These numbers reflect revisions made on June 3, 2009 by the Chair of the Senate Budget Committee. Discretionary spending limits for 2010 were revised along with the 302(a) allocations to the Senate Appropriations Committee. See footnote 12.

subcommittees as soon as practicable. These suballocations are known as 302(b) subdivisions.<sup>14</sup> The appropriations committees may make allocations among subcommittees, even if they do not correspond with the levels set forth in the functional categories of the budget resolution. Section 302(c) of the Budget Act provides a point of order against the consideration of any appropriations measures before the Appropriations Committee reports its subdivisions.

The Appropriations Committees are then required to report these subdivisions to their respective chambers. The Appropriations Committees may revise the 302(b) subdivisions anytime during the appropriations process to reflect actions taken on spending legislation. If an Appropriations Committee does adjust the subdivisions among subcommittees, it must inform its respective chamber of the new levels by issuing a new 302(b) subdivision report.

Section 302(f) of the Budget Act prohibits consideration of any measure or amendment that would cause the 302(a) or 302(b) allocations to be exceeded. Since appropriations subcommittees usually report their bills at the maximum level of spending, amendments offered to the appropriations bill on the floor are often vulnerable to being ruled out of order since they would cause the spending to exceed the 302(b).<sup>15</sup>

## **Direct Spending**

House and Senate legislative committees also receive 302(a) allocations that reflect their jurisdiction over direct spending programs. Any legislation reported by these committees must be consistent with these allocations.<sup>16</sup> As with discretionary spending, Section 302(f) prohibits the consideration of any measure or amendment that would cause the 302(a) allocation to be exceeded.

The budget resolution also provides for new budget authority for direct spending, though these levels are based on policies in current law and not allocated by the appropriations committees. Mandatory spending for FY2010 totals \$2,218 billion, mostly in the functional categories for Health, Medicare, Income Security, and Social Security.

## **Reconciliation**

Points of order can effectively limit spending that results from appropriations acts or new entitlement legislation to levels consistent with the budget resolution, but are not an effective means for reducing spending that results from existing laws providing direct spending. As a result, Congress has established the reconciliation process as a way to instruct committees to develop legislation to change current revenue or direct spending laws so that these programs conform with policies established in the budget resolution.<sup>17</sup>

The reconciliation process is an optional two-stage process in which instructions are included in the budget resolution. Reconciliation instructions are in the form of a directive to a specific

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<sup>14</sup> These totals are named after Section 302(b) of the Budget Act which requires that the Appropriations Committees suballocate 302(a) allocations among their respective subcommittees.

<sup>15</sup> Such points of order may be waived by a special rule reported from the Rules Committee or by unanimous consent in the House. In the Senate, points of order may be waived by unanimous consent or by a 3/5 vote of Senators duly sworn and chosen (60 if no vacancies).

<sup>16</sup> When Congress considers new revenue or direct spending legislation, CBO estimates the amount of revenues or outlays that would ensue if the measure were enacted. For revenues CBO uses estimates prepared by the Joint Committee on Taxation. These numbers are then measured against the baseline.

<sup>17</sup> For more information on the reconciliation process, see CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.



committee to recommend legislative changes. These instructions are specific and include (1) the committee responsible for making the change, (2) the dollar amount of the change, and (3) the period over which this change should be measured. Reconciliation instructions also include a deadline for the committee to submit such recommendations.

Although reconciliation instructions are not binding in terms of specific policy requirements, S.Con.Res. 13 provides the reconciliation instructions below to House and Senate committees. The instructions allow for health care and education reform initiatives, and direct the committees of jurisdiction in the House and Senate to submit legislative language to their respective Budget Committees by October 15, 2009.

#### SEC. 201. RECONCILIATION IN THE SENATE.

(a) Committee on Finance- The Senate Committee on Finance shall report changes in laws within its jurisdiction to reduce the deficit by \$1,000,000,000 for the period of fiscal years 2009 through 2014.

(b) Committee on Health, Education, Labor, and Pensions- The Senate Committee on Health, Education, Labor, and Pensions shall report changes in laws within its jurisdiction to reduce the deficit by \$1,000,000,000 for the period of fiscal years 2009 through 2014.

(c) Submissions- In the Senate, not later than October 15, 2009, the Senate committees named in subsections (a) and (b) shall submit their recommendations to the Senate Committee on the Budget. Upon receiving all such recommendations, the Senate Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

#### SEC. 202. RECONCILIATION IN THE HOUSE.

(a) Health Care Reform-

(1) The House Committee on Energy and Commerce shall report changes in laws to reduce the deficit by \$1,000,000,000 for the period of fiscal years 2009 through 2014.

(2) The House Committee on Ways and Means shall report changes in laws to reduce the deficit by \$1,000,000,000 for the period of fiscal years 2009 through 2014.

(3) The House Committee on Education and Labor shall report changes in laws to reduce the deficit by \$1,000,000,000 for the period of fiscal years 2009 through 2014.

(b) Investing in Education- The House Committee on Education and Labor shall report changes in laws to reduce the deficit by \$1,000,000,000 for the period of fiscal years 2009 through 2014.

(c) Submissions- In the House, not later than October 15, 2009, the House committees named in subsections (a) and (b) shall submit their recommendations to the House Committee on the Budget. Upon receiving all such recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such changes without any substantive revision.

The legislative language recommended by committees will be packaged “without any substantive revision” into a reconciliation bill by the House and Senate Budget Committees. Once reported, reconciliation legislation is considered under special procedures on the House and Senate floor.

## Reserve Funds

Spending allocations may be revised subsequent to the adoption of the budget resolution if provided for in the budget resolution. Congress frequently includes provisions referred to as “reserve funds” in the annual budget resolution, which provide the chairs of the House and Senate

Budget Committees the authority to adjust the committee spending allocations if certain conditions are met. Typically these conditions consist of legislation dealing with a particular policy being reported by the appropriate committee or an amendment dealing with that policy being offered on the floor. Once this action has taken place, the Budget Committee chairman submits the adjustment to his respective chamber.

Title III of S.Con.Res. 13 is composed of 34 reserve funds, 20 of which appear under Subtitle A and apply only to the Senate. There are 14 reserve funds in Subtitle B that apply only to the House. These reserve funds include policies such as education, energy, healthcare, and tax relief.

All of the reserve funds in S.Con.Res. 13 require that the net budgetary impact of the specified legislation be deficit neutral. Deficit-neutral reserve funds provide that a committee may report legislation with spending in excess of its allocations, but require the excess amounts be “offset” by equivalent amounts. The Budget Committee chairman may then increase the committee spending allocations by the appropriate amounts to prevent a point of order under Section 302 of the Budget Act.

## Procedural Provisions

In addition to the Senate discretionary spending limit described above, Title IV of S.Con.Res. 13 includes a number of provisions concerning budget enforcement. These provisions include limit on advance appropriations, emergency spending, legislation increasing the short term deficit and legislation related to surface transportation funds.

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